

# MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT

## DIVISION OF CREDIT UNIONS

### NEWSLETTER

Volume 5, Number 6

July 30, 2003

#### WHAT'S NEW

*The "What's New" section on the Division of Credit Unions' web site publishes hot topics of current interest or repeated findings in credit unions being examined. We welcome your suggestions on topics of interest or information that should be addressed. Similarly, we invite questions, suggestions or comments on the topics we write about. We can receive them by e-mail addressed to [cu@ded.state.mo.us](mailto:cu@ded.state.mo.us), calling the Division of Credit Unions at (573) 751-3419 or contacting your assigned examiner.*

#### **Indirect Lending**

Recently credit unions have noted deterioration in credit quality of loans submitted from certain dealerships through indirect lending programs. Credit unions need to determine that acceptable credit quality is maintained. This requires management to continually monitor the paper quality and delinquency of loans generated by each dealership.

If weaknesses are noted, credit union management must take positive steps to restore credit quality to an acceptable level. This may require stipulating conditions for approval of certain loans or may require the credit union to limit or eliminate programs with specific dealerships.

Indirect lending can provide a sound means of increasing loan volume. However, management must consistently ensure that adequate internal controls are in place to provide acceptable loan quality.

#### **Investments**

If you have purchased a collateralized mortgage obligation (CMO) recently, please be aware of the following.

Certain CMO's are now being issued with an option to exchange the CMO for an interest only (IO) bond. However, interest only bonds are not permissible under either Missouri statute or rule (RSMo.370.075, 4 CSR 100-2.135) or federal regulation. The National Credit Union Administration's Office of General Counsel has apparently ruled that the CMO is not legal because of the option to convert the instrument to an illegal investment. ***The option to exchange the investment -- not exercising the option -- makes the CMO impermissible.*** As a general rule investments can be legally held only if all

parts of an investment are legal should they be purchased separately.

Please review the prospectus of any recently purchased collateralized mortgage obligations to determine that this option is not included in your bond. If you have purchased an 'exchange' CMO, or if you have questions regarding a pending purchase please contact your examiner or the Division of Credit Unions office.

#### **5300 Short Forms**

Questions have arisen regarding the use of the 'short form' when completing the NCUA 5300 Call Report. Currently, a shorter version of the call report is available for quarters ending March 31 and September 30 if the credit union has less than \$10 million in assets. At present 87 Missouri credit unions may complete the abbreviated version.

Consideration has been given to increasing the asset threshold, potentially permitting an additional 50 credit unions with less than \$50 million in assets to utilize the 'short form.' However, these additional credit unions generally carry a more complex balance sheet. The Division has determined that the abbreviated version of the call report does not provide sufficient detail of investments and shares for the structure of these credit unions.

Those credit unions under \$10 million in assets may continue to complete the 'short form.' All other credit unions with assets in excess of \$10 million should continue to use the standard 5300 form. If you have any questions regarding completion of the call report, please contact your examiner.

#### **CREDIT UNION COMMISSION MEETS**

The Credit Union Commission met by telephone conference call on July 29, 2003. Commission members in attendance were Pat Yokley, Bill Humpfer, Sharon Ichord, Cathy Stroud, Pat Macdonald, Lori Levine and John Hanneke. Others attending were, Mike Wambolt, Linda Manlove-Brackston, Attorney General's Office; Becky Kilpatrick, Regulatory Counsel, Department of Economic Development; Donna Bunton, Raytown-Lee's Summit Community Credit Union; Jack Pletz, attorney, Wade Nash, General Counsel, Missouri Bankers Association (MBA); James Deutsch, attorney; Mike

Winters and Peggy Nalls, Missouri Credit Union Association; Robin Black and Glen Barks, First Community Credit Union; Larry Giesing and Clarence Hagemann, St. Louis Postal Credit Union; April Miller, United Community Credit Union; Dennis Sommer, Alliance Credit Union; Judy Hadsall, City Utilities Credit Union; Hubert Hoosman, Jr., Vantage Credit Union; Zurett Merridith and John P. Smith, Division of Credit Unions.

Minutes from the January 15, 2003 and May 7, 2003 Commission meetings were approved.

The Commission reviewed the field-of-membership expansion application submitted by **Raytown-Lee's Summit Community Credit Union**. More than 3,000 potential members exist within the group. The Commission found the group met the criteria for an exemption from the limitations on groups in 4 CSR 105-3.040.

The Commission took action to hire a hearing officer to hear the appeals by the MBA and local banks of the Director's decisions approving the field of membership expansion for **First Community Credit Union, Alliance Credit Union, St. Louis Postal Credit Union, United Community Credit Union** and **Aerospace Community Credit Union**.

The next regular Commission meeting will be held on August 20, 2003 at 10:30 AM in Jefferson City, Missouri.

## FIELD OF MEMBERSHIP APPLICATION UPDATE

**Springfield Telephone Employees Credit Union** (now **Telcomm Credit Union**) submitted an application to include those persons who reside or work in the 417 telephone Area Code and the 573 (bordered on the north by I-70) telephone Area Code. The Director approved the expansion of **Springfield Telephone Employees Credit Union** to those in the 417 Area Code, but not the 573 Area Code. The decision was published in the November 15, 2000 Missouri Register. On November 30, 2000 the Missouri Bankers Association (MBA) and Century Bank of the Ozarks (CBO) filed an appeal of the decision to the Credit Union Commission. The Commission heard the appeal on March 29, 2001. On May 24, 2001 the Commission upheld the decision of the Director. On August 16, 2001, the decision was released and the Director filed **Springfield Telephone Employees Credit Union's** amended bylaws with the Secretary of State. On September 14, 2001, the MBA and CBO filed a petition for administrative review in Cole County Circuit Court.

On November 19, 2001, a hearing was held before Judge Tom Brown, Division 1, Circuit Court of Cole County. The motion to refer the case to another division of the court

was granted and the case was referred to Judge Byron Kinder, Division 2. A motion to dismiss the case for lack of standing was heard on January 3, 2002. On January 29, 2002 the court ruled the plaintiffs lack standing to maintain causes of action set forth in their petition and ordered the plaintiffs' petition be dismissed. On March 11, 2002 the MBA and CBO filed an appeal of the decision in the Western Appellate Court of Appeals. Appellant's briefs were due June 3, 2002 with the respondent's briefs due July 3, 2002. A hearing by the Western Appellate Court was held on October 3, 2003 in Kansas City. On January 14, 2003, the Appellate Court upheld the decision of Cole County Circuit Court. On January 14, 2003, the MBA and CBO filed motions for a rehearing and transfer to the Missouri Supreme Court. The Appellate Court on March 4, 2003 denied the motions. On April 23, 2003, the Missouri Supreme Court issued an order transferring the case to their jurisdiction. Oral arguments are scheduled for September 10, 2003. Briefs filed with the Supreme Court can be located at <http://www.osca.state.mo.us/sup/index.nsf?OpenDatabase>.

**South Community Credit Union** submitted an application for those who work or reside in Zip Codes 63109, 63111, 63116, 63123, 63125, 63128, 63129, and Crawford County, Franklin County, Gasconade County and Washington County. **Central Communications Credit Union** submitted an application for those persons who reside or work in the 816 telephone Area Code. The Director approved the applications submitted by **South Community and Central Communications Credit Unions**. These decisions were published in the November 15, 2000 Missouri Register. On November 30, 2000 the MBA and two local banks located in each of the two applicants' field of membership expansion areas filed appeals of the decisions to the Credit Union Commission. The Commission received the record of appeals from all parties on May 24, 2001. On August 9, 2001, the Commission upheld the decisions of the Director. The written decisions were released on January 25, 2002. On February 21, 2002, the MBA and the local banks filed a petition for administrative review in Cole County Circuit Court. Both cases were assigned to Judge Tom Brown, Division 1. On April 17 the cases were reassigned to Judge Byron L. Kinder, Division 2 and a motion was entered to stay the proceedings until the outcome of the Springfield Telephone Employees case was decided. The cases can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; the case numbers are 02CV323402 and 02CV323401.

**Educational Employees Credit Union** (now **Vantage Credit Union**) submitted an application for those who live or work in St. Louis County, St. Charles County, Jefferson County, Cape Girardeau County and Franklin County. The application was published in the December 15, 2000 Missouri Register. The Director approved the application and his decision was published in the February 15, 2001

Missouri Register. On March 1, 2001 the MBA and two banks located in the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission received the record of appeal of **Educational Employees Credit Union** on October 19, 2001 and established briefing schedules. On March 5, 2002, the Commission dismissed the appeal due to lack of standing. On July 18, 2002 the MBA and the two banks filed a Petition in Mandamus in Cole County Circuit Court. An order by Cole County District Court staying the case was entered on December 2, 2002. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 02CV324797.

**City Utilities Credit Union** submitted an application for community residents and workers in Greene and Christian Counties. The application was published in the June 1, 2001 Missouri Register. The Director approved the application and his decision was published in the August 1, 2001 Missouri Register. On August 14, 2001 the MBA and a local bank located within the applicant's field of membership expansion area filed an appeal of the decision to the Credit Union Commission. On August 8, 2002 the Commission heard and denied the appeal for lack of standing. The decision was released on December 9, 2002. On January 2, 2003, MBA and the local bank filed a Petition in Mandamus in Cole County Circuit Court. The case can be followed on the internet at <http://casenet.osca.state.mo.us/casenet/>; case number 03CV323001.

**First Community Credit Union** submitted an application for individuals who reside or work in the counties of Lincoln, Warren, Franklin, Washington, St. Francois, Ste. Genevieve, Pike, Montgomery, Gasconade and Crawford in the state of Missouri and the City of St. Louis. The application was published in the August 1, 2002 Missouri Register. The Director approved the application and his decision was published in the September 16, 2002 Missouri Register. On September 26, 2002 the MBA and a local bank located within the field of membership expansion area filed an appeal of the decision to the Credit Union Commission. The Commission at their October 31, 2002 meeting established the briefing schedule for the appeal. The Commission considered the appeal at their January 15, 2003 meeting heard but took no action. At the Commission's July 29, 2003 meeting, action was taken to hire a hearing officer to hear the appeal.

**Alliance Credit Union** submitted an application for those who work or reside in St. Charles County or St. Louis County. The application was published in the November 15, 2002 Missouri Register. The Director approved the application and his decision will be published in the January 16, 2003 Missouri Register. On January 30, 2003, the MBA and Allegiant Bank filed an appeal of the

Director's decision with the Credit Union Commission. At the Commission's July 29, 2003 meeting, action was taken to hire a hearing officer to hear the appeal.

**St. Louis Postal Credit Union** submitted an application for those who live or work in the Zip Codes 63005, 63017, 63042, 63043, 63044, 63126, 63127 and St. Charles County. The application was published in the December 2, 2002 Missouri Register. The director approved the application and his decision will be published in the January 16, 2003 Missouri Register. A fifteen calendar period for appeal must occur before the decision is final. On January 30, 2003, the MBA and Midwest Bank Centre filed an appeal of the Director's decision with the Credit Union Commission. At the Commission's July 29, 2003 meeting, action was taken to hire a hearing officer to hear the appeal.

**United Community Credit Union**, an Illinois chartered credit union, submitted an application for those who live or work in the Missouri counties of Lewis, Ralls and Marion. The application was published in the January 2, 2003 Missouri Register. The director approved the application and his decision was published in the February 18, 2003 Missouri Register. On March 4, 2003 the MBA and the Farmers and Merchants Bank and Trust Company filed and appeal of the Director's decision with the Credit Union Commission. At the Commission's July 29, 2003 meeting, action was taken to hire a hearing officer to hear the appeal.

**Aerospace Community Credit Union** submitted an application for those who live or work in the remainder of St. Louis City, St. Louis County and St. Charles County that is not currently in the **Aerospace Community Credit Union's** field of members and those who live or work in Lincoln County. The application was published in the May 1, 2003 Missouri Register. The director approved the application and his decision was published in the July 1, 2003 Missouri Register. On July 14, 2003 the MBA and the First National Bank of St. Louis filed and appeal of the Director's decision with the Credit Union Commission. At the Commission's July 29, 2003 meeting, action was taken to hire a hearing officer to hear the appeal.

**Anheuser Busch Employees' Credit Union** submitted an application for those who live or work, or legal entities in Zip Codes 63103, 63110, 63116, 63118, as well as legal entities in Zip Code 63104 all low-income areas. The application was published in the June 16, 2003 Missouri Register. The director approved the application and his decision will be published in the August 1, 2003 Missouri Register. A fifteen calendar day comment period following publication must occur before the decision is final.

**Southeast Telephone Employees Credit Union** submitted an application for persons who live or are employed in the Missouri Counties of St. Francois

County, Ste. Genevieve County, and Madison County. The application will be published in the August 1, 2003 Missouri Register.

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**PROPOSED REVISION TO  
4 CSR 100-2.080  
FISCAL AND FINANCIAL SERVICES**

The Director of the Division of Credit Unions proposes amendments to section (4) of this rule that governs fiscal and financial services. The amendment is designed to provide a specific list of fiscal and financial services credit unions may offer without prior approval of the Director. Bracketed italicized sections will be deleted; bold sections are additions to the proposed revision.

(4) *[Where a credit union, prior to August 13, 1972, has provided the member services of money orders and travelers checks, authority is given for the credit unions to continue these fiscal and financial services to their members, unless the director orders a specific credit union to cease these services.]* **The director of the Division of Credit Unions authorizes all credit unions to offer the following business related services without prior approval unless the director orders a specific credit union to cease offering these services:**

- (A) Money orders, travelers' checks, letters of credit;**
- (B) Share draft accounts;**
- (C) Debit, credit, ATM and smart cards;**
- (D) Sale of insurance products;**
- (E) Any program servicing or granting loans;**
- (F) Any share program or**
- (G) Sale of tickets, charitable or promotional items.**

The credit union offering these services shall make available to the director, upon his/her request, the direct and indirect cost of providing the services together with a schedule of the fees charged for the services.

Anyone may file a statement in support of or in opposition to this Proposed Amendment with the Division of Credit Unions, John P. Smith, Director, P.O. Box 1607, Jefferson City, MO 65102. The proposed amendment was published in the July 15, 2003 Missouri Register. To be considered, comments must be received by August 15, 2003. No public hearing is scheduled.

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**From the Director...**

Bogus Credit Union

An entity calling itself "Century Credit Union" ran an advertisement in the Jefferson City News-Tribune newspaper earlier this month offering financial services such as credit repair and home, personal, and auto loans. The ad listed an 866 phone number. Similar ads are know

to have ran in newspapers in MO, CA, PA, CO, and AK. The ad in California was purchased with a fraudulent credit card. There are five state or federally chartered credit unions with "Century" in their name, and none is affiliated with this company. When contacted, the entity may approve a loan but ask for three months' payments in advance or ask for prepayment of a default insurance policy with payment wired to Canada.

Additionally during the week of July 14, 2003, someone "mimicked" the real Missouri-based Century Credit Union website so that members looking for loans saw an incorrect contact phone number, taking them to this "credit union." While the entity claims to be based in Lakeland, Florida, the address given does not exist.

The Missouri Attorney General, the National Credit Union Administration, credit union regulators in the states where the ads has ran, the Federal Trade Commission and the FBI have been alerted. If you see an advertisement for "Century Credit Union" or any other credit union that looks suspicious, please contact us. The use of the words 'credit union' is restricted by Missouri law (RSMo 370.360). Credit unions, to prevent their web site from being copied into a similar domain name site, should register the domain names of closely related names.

Personal Identity Theft

Identity theft continues to be a problem. The following information is from the Federal Trade Commission web site <http://www.consumer.gov/idtheft/>.

Here's how to guard against personal identity theft:  
Before revealing personal identifying information, find out how it will be used and if it will be shared with others. Ask if you have a choice about the use of your information: can you choose to have it kept confidential?

Pay attention to your billing cycles. Follow up with creditors if bills do not arrive on time.

Give your Social Security number only when absolutely necessary. Ask to use other types of identifiers when possible.

Minimize the identification information and the number of cards you carry to what you actually need. If your I.D. or credit cards are lost or stolen, notify the creditors by phone immediately, and call the credit bureaus to ask that a "fraud alert" be placed in your file.

Order a copy of your credit report from the three credit reporting agencies every year. Make sure it's accurate and includes only those activities you've authorized.

Keep items with personal information in a safe place; tear them up when you don't need them anymore. Make sure charge receipts, copies of credit applications, insurance

forms, bank checks and statements, expired charge cards, and credit offers you get in the mail are disposed of appropriately.

**For More Information**

If you've been a victim of identity theft, [file a complaint](#) with the FTC by contacting the FTC's Identity Theft Hotline by telephone: toll-free 1-877-IDTHEFT (438-4338); TDD: 1-866-653-4261; by mail: Identity Theft Clearinghouse, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580.

A handwritten signature in dark ink, reading "John P. Smith". The signature is written in a cursive style with a vertical line to its right.

**John P. Smith, Director**